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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,884	05/21/2002	Chien-Fa Wang	VIAP0035USA	2358

27765 7590 10/31/2005	EXAMINER	
NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION	NGUYEN, VAN KIM T	
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MERRIFIELD, VA 22116	ART UNIT	PAPER NUMBER
	2151	

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>21 May 2002</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☒ Claim(s) *15 and 16* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

DETAILED ACTION

1.   This Office Action is responsive to communications filed on August 29, 2005.

Applicant's arguments filed August 29, 2005 have been fully considered but they are not

persuasive. Claims 1-16 are pending in the case.

Claim Rejections - 35 USC § 103

2.   The text of those sections of Title 35, U.S. Code not included in this action can be

found in a prior Office action.

3.   Claims 1, 3-4, 7-8, 10-11, and 14 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Gonno (US 6,404,739), in view of Comer (Internetworking with TCP/IP

Volume I, Principles, Protocols, and Architecture, 1995).

As shown in Figures 1-9, Gonno discloses a method for transferring a program (data) via

a network comprising a server (1, 101) and a plurality of terminals (3_1-3_5, 103-107) connected to

the server (col. 1: lines 40-55, and col. 5: lines 47-63), the terminals being capable of requesting

the server to transfer the program (col. 5: lines 48-51), the server responding to the request of the

terminals by broadcasting the program to the terminals (col. 5: line 61 – col. 6: line 5), the

method comprising:

using a terminal (retransmission-request receiver) to request the server (transmitter) to re-

transfer the program (by sending retransmission request signals NAK) when the terminal

receives only a portion of the program (when not successfully receive data) requested by another

terminal instead of receiving the complete program during a timeout period (during a

predetermined time), (col. 2: lines 15-38, and col. 7: line 15 – col. 10: line 33, esp. col. 9: lines 6-39).

However, Gonno does not explicitly call for *dynamically adjusting the timeout period of the terminal according to which portion of the program has been received by the terminal.*

Comer discloses dynamically adjusting the timeout period of the terminal according to which portion of the program has been received by the terminal (e.g., using an adaptive retransmission algorithm to monitor the performance of each connection and dynamically deduces reasonable values for timeouts; Section 13.16 Timeout and Retransmission, pages 209-211).

Gonno and Comer teach analogous arts, relating to transmitting data in a network environment, thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Comer's method of dynamically adjusting the time out period in Gonno's system, to accommodate retransmission of data due to loss and delay.

Regarding claims 3 and 10, the combination of Gonno and Comer also discloses when the server receives the request of the terminal, the server enables a thread to broadcast the program (Gonno: col. 6: lines 33-38, and col. 9: lines 29-39).

Gonno and Comer teach analogous arts, relating to transmitting data in a network environment, thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Comer's method of dynamically adjusting the time out period in Gonno's system, to accommodate retransmission of data due to loss and delay.

Regarding claims 4 and 11, the combination of Gonno and Comer also discloses dividing the program into a plurality of data packets, the server transferring the program using the data packets (Gonno: col. 8: lines 59-64).

Gonno and Comer teach analogous arts, relating to transmitting data in a network environment, thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Comer's method of dynamically adjusting the time out period in Gonno's system, to accommodate retransmission of data due to loss and delay.

Regarding claims 7 and 14, the combination of Gonno and Comer also discloses the terminals (103, 107) are information appliances (e.g., computers; Gonno: col. 1: lines 43-45).

Gonno and Comer teach analogous arts, relating to transmitting data in a network environment, thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Comer's method of dynamically adjusting the time out period in Gonno's system, to accommodate retransmission of data due to loss and delay.

4.   Claims 2, 5, 9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gonno and Comer, as applied to claims 1 and 8 above, in view of Metz et al (US 5,666,293), hereinafter Metz.

Regarding claims 2 and 9, the combination of Gonno and Comer discloses substantially all the claimed limitations, except the program is an operating system for the terminals.

As shown in Figures 1-9, Metz discloses downloading operating system software through a broadcast channel (abstract).

The combination of Gonno and Comer, and Metz teach analogous arts, both relating to a system and method for transmitting or downloading data via a broadcasting link. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Metz' method of downloading an operating system software via a broadcast channel in Gonno's system, motivated by the needs of efficiently distributing data to a plurality of users, i.e., reducing storage space required for storing operating system software at each of the plurality of users.

5.   Regarding claims 5 and 12, the combination of Gonno and Comer discloses substantially all the claimed limitations, as applied to claims 4 and 11 above, except each of the data packets has the same size.

Metz also discloses each of the data packets has the same size (i.e., ATM cell; col. 12: lines 54-66).

The combination Gonno and Comer, and Metz teach analogous arts, both relating to a system and method for transmitting or downloading data via a broadcasting link. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Metz' method of using same sized data packets in Gonno's system, motivated by the desire to efficiently transmitting data over a network, i.e., savings bandwidth by sending ATM cells only when needed, not because a transmission time slot happened to be available.

6.   Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over

the combination of Gonno and Comer, as applied to claims 4 and 11 above, in view of Tran (US

5,453,987).

The combination of Gonno and Comer discloses substantially all the claimed limitations,

except the server broadcast the data packets sequentially in a fixed time interval.

As shown in Figures 4, Tran discloses the server broadcasts the data packets sequentially

in a fixed time intervals (col. 3: lines 58-67).

The combination of Gonno and Comer, and Tran teach analogous arts, both relating to a

system and method for transmitting data on a broadcast communication channel. Thus it would

have been obvious to one of ordinary skill in the art at the time the invention was made to Tran's

method of broadcasting data packets sequentially in a fixed time interval, in order to conforming

to the TDM protocol and increasing the throughput of the data communication system.

Allowable Subject Matter

7.   Claims 15-16 are objected to as being dependent upon a rejected base claim, but

would be allowable if rewritten in independent form including all of the limitations of the base

claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

Claims are considered allowable when reading the claims none of the references of

record singly or in combination disclose or suggest the combination limitations specified in the

independent claims, including timeout period of the terminal is dynamically adjusted according

to the difference between the number of the highest numbered data packet not yet received by the terminal and the number of the received data packet.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

8.   Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Van Kim T. Nguyen whose telephone number is 571-272-3073. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung, can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Van Kim T. Nguyen
Examiner
Art Unit 2151

vkn

ZARNI MAUNG
SUPERVISORY PATENT EXAMINER